



## Joint statement by the German government and the German *Länder* on EU Cohesion Policy beyond 2020

1. In light of the United Kingdom's decision to leave the EU and the new challenges that have emerged over the last few years (such as migration, national security and foreign policy crises), we need to review the EU's existing areas of expenditure. It will not be possible to define the scope and focus of future cohesion policy until the negotiations about the EU's next Multiannual Financial Framework have been concluded. It is against this backdrop that the German government and the German *Länder* express the following convictions:
2. The German government and the German *Länder* advocate that cohesion policy, which is the most important tool of EU investment policy and plays a fundamental role in strengthening economic, social, and territorial cohesion within the Union, continue to play a central role. European cohesion policy is a visible sign of true solidarity within the EU. The many projects undertaken as part of the EU's cohesion policy in all Member States and regions are an important way for citizens to experience the positive effects of European integration.
3. The German government and the German *Länder* continue to see cohesion policy as emblematic of solidarity within the union. In line with what is set out in the treaties, much of our future cohesion policy ought to continue to be designed to help bridge the gaps in development between the regions and allow least-favoured areas to catch up. At the same time, however, cohesion policy must also provide support to all those regions that are especially affected by profound challenges such as the need to integrate large numbers of refugees or to cope with demographic change, the digital transformation or decarbonisation. The German government and the German *Länder* are therefore calling for all regions within the European Union to continue to be taken into account under cohesion policy, depending on each region's state of structural development and on the region's individual needs.
4. In the view of the German government and the German *Länder*, cohesion policy ought to continue to play a central role within the EU's economic and employment policy; first of all by promoting the goals of intelligent, sustainable, innovative and inclusive growth and of employment, which underpin the funds. As cohesion policy can be adjusted to the regional needs and particularities, it is a tool that is ideally suited to deliver a better environment for research and innovation, improve the competitiveness of SMEs, promote jobs and skills development, and help protect the environment and combat climate change, which is the basis for a strong, resource-efficient economy. Furthermore, cohesion policy must deliver stronger incentives for Member States to embark on the necessary structural reforms, which will help improve the EU's overall resilience into the future. This must be done in a way that respects the responsibilities of the Member States. We need to make sure that all programmes that are run under EU cohesion policy are stringently geared towards creating an added benefit for the EU ('European added value').
5. European Territorial Cooperation (ETC) must continue to be part of European cohesion policy. Funding ought to continue to be provided for each of the three levels of ETC, i.e. cross-border, transnational, and interregional cooperation. Close and specific cooperation between individual European regions is highly important for European integration and highlights the need for joint problem-solving as we build a Europe that is economically strong and acts in solidarity.

6. The German government and the German *Länder* are convinced that the rules governing the management of the EU Structural Funds need a great deal of simplification in the next funding period. Given the major discrepancies that exist between individual Member States, the German government and the German *Länder* are supportive of introducing a differentiated approach when it comes to the stipulation of requirements regarding programme design, management, and supervision of the funds disbursed under EU cohesion policy.
7. For more information about the positions held by the German government and the German *Länder* please consult
  - the comments by the German government on EU Cohesion Policy beyond 2020 (part 1), and
  - the comments by the German *Länder* on EU Cohesion Policy beyond 2020 (part 2).

Berlin, June 20, 2017

# Part 1: Comments by the German government on EU Cohesion Policy beyond 2020

## I. Summary

1. Future cohesion policy cannot be designed in a vacuum. Instead, it must be discussed within the wider context of the EU Multiannual Financial Framework (MFF) and in terms of the role the MFF is to play as the EU pursues its priorities. For this reason, the German government would like to start by referring readers to its position paper on the mid-term review of the MFF. The United Kingdom's exit from the EU – the UK having been one of the largest contributors to the EU budget – will constitute a significant burden to the next MFF. In addition to this, there are other new challenges that have emerged in recent years (e.g. migration, domestic security, foreign-policy crises) and that have in some cases led to priorities being rebalanced between various European policies. All funding disbursed under EU policies should therefore be critically assessed. The MFF will be subject to overall cutbacks that will affect all of its various areas of expenditure. For this reason, it will not be possible to define the scope and focus of future cohesion policy until these wider developments and debates have been concluded.
2. This notwithstanding, cohesion policy, which is the most important tool of EU investment policy and which plays an elementary role in strengthening economic, social, and territorial cohesion within the Union, will continue to play a particular role. European cohesion policy, which is administered through the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund, is a visible sign of true solidarity within the EU. The many projects undertaken as part of the EU's cohesion policy in all Member States and regions help raise the profile of the European Union and relate to our citizens' lives.
3. The funding disbursed under EU cohesion policy will continue to be a decisive tool for strengthening economic and social cohesion within among the entire prospective EU-27. The challenges we have encountered over recent years have highlighted that everyone needs to show solidarity. Cohesion policy should continue to stand for EU support targeted towards Member States and regions that are lagging behind on economic performance. Future cohesion policy, however, ought to also support all those regions that are especially affected by profound challenges such as the need to integrate large numbers of refugees or to cope with demographic change. Also to be explored are alternative new ways of distributing the funding available.
4. The latest evaluations of the work of the ERDF and the ESF have shown that cohesion policy has made an important contribution to growth, employment and sustainable development within the EU, in an economic environment that has been difficult. In the view of the German government, cohesion policy ought to continue to play a central role within the EU's economic and employment policy; on the one hand by promoting the goals of smart, sustainable, innovative and inclusive growth and of employment in line with the specific goals of the funds. On the other hand, future cohesion policy must more effectively support necessary structural reforms in the Member States, which will improve the sustainability of the EU as a whole. Where less developed regions are concerned, efforts ought to be targeted more strongly towards capacity-building within the public administration.
5. Whilst European cohesion policy certainly has delivered success both in the 2007 – 2013 funding period and in the current period of 2014 – 2020, there is no denying that there are challenges and weaknesses that still need addressing. The German government calls upon the European Commission, as it prepares for the new funding period, to conduct a detailed analysis as to why it is that some regions are failing to progress, and to table proposals as to how this could be resolved. This may require exploring some new avenues.

6. Cohesion policy must be measured against the same yardstick as any other EU spending: it must be stringently geared towards creating added value for the EU ('European added value'). To this end, some major reform has been undertaken during the present funding period (2014 – 2020). This notably includes the link between cohesion policy and the economic governance of the European Semester. The German government holds that this link ought to be further strengthened. It is the German government's view that the EU Structural Funds ought to be used more as a lever for necessary structural reform and compliance with the requirements stipulated within the process of economic-policy coordination within the European Semester. Implementing country-specific recommendations will help countries create greater macro-economic stability and harness the full potential of cohesion policy in terms of its ability to deliver sustainable growth and employment.
7. The German government is convinced that the rules governing the management of the EU Structural Funds need a great deal of simplification in the next funding period. Given the major discrepancies that exist between Member States, the German government is supportive of introducing a differentiated approach when it comes to the stipulation of requirements regarding programme design, management, and supervision of the funds disbursed under EU cohesion policy.
8. Programmes were slow to get off the ground during the current funding period. This illustrates just how important it is to have sufficient run-up time prior to implementation of the various programmes. The German government therefore asks that the European Commission table its proposals on regulations affecting EU cohesion policy beyond 2020 along with its proposals on the future MFF and as early on as possible, so as to allow for all of the relevant legal instruments to be adopted prior to the beginning of the new funding period.

## **II. The pillars of future EU cohesion policy**

### **Distribution of funds to the regions**

9. Cohesion policy is an important sign of solidarity within the Union. In line with what is set out in the treaties, future cohesion policy ought to continue to mainly help reduce disparities between the levels of development of the various regions and especially the backwardness of the least favoured regions. At the same time, however, cohesion policy should also provide support to all those regions that are having to face other profound challenges in a major way.
10. The German government is therefore calling for all regions within the European Union to continue to be taken into consideration under cohesion policy, depending on each region's state of structural development and on the region's individual needs.
11. Some Member States that have found it difficult to use the large amounts of funding allocated to them within the specified deadlines. Individual Member States' capacity to absorb funding therefore ought to be given greater consideration as funds are being allocated. Furthermore, a greater proportion of the funds allocated to less-developed regions ought to be used to build administrative capacity.
12. Recent years have shown that more developed regions are also having to face new challenges of a long-term and structural nature – challenges that ought to be factored in as part of the needs assessment. For instance, there are regions that are having to cope with the task of integrating large numbers of refugees and adjusting to demographic change.
13. The German government is also calling for a review into how future cohesion policy could be designed to ensure that funds are used more efficiently. We recommend that an assessment also be conducted as to whether it might make sense to replace the system of having three categories of regions with a new approach to distributing the funds, i.e. a linear one, that would eliminate the risk of areas randomly switching categories. The most important goal for cohesion policy as a whole must remain that of achieving economic convergence of different regions in Europe.

## Co-financing rates

14. The German government stands by the principle that any funding made available under EU cohesion policy must be complemented by a substantial share of national funds. This is to strengthen national ownership and ensure that all funding is used in a targeted and efficient way. In order to strengthen national ownership the amount of co-financing provided by the EU ought to be lowered, at least to the rates that applied before the economic crisis. There ought to be no more exceptions to this rule.

## Deadlines for the use of funds

15. Given that the programmes receiving funding under EU cohesion policy are multiannual and require pre-financing, they will always need a certain amount of time to get off the ground. As of the current funding period, the so-called 'n+3 rule' has applied, replacing the previous 'n+2 rule'. This means that funds have to be used within four years after the relevant commitment appropriations have been entered to. The new rule has led to delays in programme implementation and worsened the RAL (Reste à liquider) issue. Provided that programme design and implementation can be simplified quite considerably, the German government calls for a return to the old, uniform n+2 rule.

## Maintaining and refining thematic concentration

16. It is the opinion of the German government that introducing a stronger thematic concentration on certain objectives of cohesion policy and having fixed quotas for the current funding period, has proven valuable across many areas of funding. We ought to build upon this approach and also seek to systematically draw on the relevant country-specific recommendations in these efforts. This will improve the quality of spending and result in funding being better focused to the factors that are the most relevant to sustainable growth and employment.
17. As applies to overall EU expenditure, care must be taken that cohesion policy continues to serve key European objectives and projects that are important to Europe's future. Most relevant with respect to this are the creation of a better environment for research and innovation, improving the competitiveness of SMEs, promoting jobs and skills development, as well as, protecting the environment and combating climate change as the basis for a strong, resource-efficient economy. Cohesion policy is a tool that is well-suited to delivering all this, as it can be adjusted to regional needs and particularities.
18. EU cohesion policy has to maintain its focus on sustainable growth and employment. The funds available ought to be put to maximum use, which is why we call for the creation of more powerful incentives for Member states to use funds in a way that is more performance oriented. Existing instruments such as the performance framework ought to be reviewed and refined to be as effective as possible.

## Flexibility in future cohesion policy

19. Any effective cohesion policy will always depend on long-term planning. This is important to ensure that challenges can be addressed strategically and that even large-scale projects can be successfully planned and completed. Planning certainty is of the essence and must not be jeopardised. This is why the German government speaks out in favour of maintaining the current congruence between the MFF and the funding periods that apply in EU cohesion policy.
20. Beside the need for planning certainty, however, there is also a need for funding to be available at short notice so as to allow for political challenges to be addressed as they arise (e.g. housing and integrating refugees). In preparation for this kind of challenge, there ought to be a flexibility reserve for EU Cohesion policy set aside under the ceiling of this specific EU budget heading. Furthermore, the existing procedures for modifying programmes and re-adjusting priorities need to be sped up and simplified.

## Interaction with other funding instruments

21. We ought to make it a key goal for EU cohesion policy beyond 2020 to create synergies between the EU Structural Funds and other instruments used to provide direct funding (in particular the 9th EU Research Framework Programme and the EFSI), which will allow for funding to be used more effectively. However, this must not result in the different objectives of the instruments becoming blurred or watered down. On the contrary, these different objectives must be seen in terms of their potential for greater synergies. Any direct competition between funding instruments, any duplication and any overlaps in the funding of projects must be avoided.
22. Whenever it makes sense to combine two or more funding instruments, the relevant procedures and requirements with regard to planning, management and supervision (procedures, project duration, eligibility rules and beneficiaries, legal requirements) ought to be aligned with one another. Also to be explored is the potential for additional options that can provide greater harmonisation and simplification, such as using the same definitions for various funding instruments.
23. At present, any dovetailing between funding from the Structural Funds and from direct management is rendered notoriously difficult by the state-aid regime and the rules governing cohesion policy. The German government is therefore calling upon the European Commission to create a legal basis for projects requiring funding (in parallel or consecutively) from a programme that uses funding from shared management and direct management to be dealt with according to the rules that govern direct management. In particular, this would apply to projects receiving funding from the Structural Funds and from EFSI and to projects receiving funding from the Research Framework Programme and the Structural Funds.

## Financial instruments

24. In order to ensure that EU structural funding is used efficiently, financial instruments ought to continue to be used as an alternative to grants or in combination with these. As this allows for raising the overall volume of projects that receive financing, greater use ought to be made of financial instruments, wherever these are suitable.
25. Different regions operate within a different context and have different needs. This is why the decision as to whether financial instruments are to be used and as to which instrument fits the particular needs should continue to be taken by regions themselves. The German government holds that stipulating a minimum quota or making it compulsory for regions to use financial instruments is not the right way forward. The question as to whether a project is better suited to the use of financial instruments or grants ought to be answered case-by-case. Furthermore, the requirements that apply with regard to the use of financial instruments ought to be stipulated more clearly and in a simpler way so as to help avoid mistakes being made.

## Urban development

26. Urban issues ought to continue to be addressed in their own right under cohesion policy, which also has a territorial aspect. To help address the challenges that are unique to urban areas, the scope for taking integrated measures to further sustainable urban development ought to be widened. In the present funding period, it has emerged that there is a considerable need for simplification in this area. The requirements that apply with regard to the urban dimension of cohesion policy and the instruments themselves must not be too narrowly defined and leave sufficient scope for dealing with diverse problems that exist within different institutional settings.

## **Fund-specific rules**

27. The German government is striving for the highest possible level of harmonisation of the rules governing the EU Structural Funds. In principle, there ought to continue to be one Common Provision Regulation stipulating 'one-for-all rules' for the time beyond 2020. This Regulation should be further improved to ensure the best-possible level of coordination when it comes to using the funds. We are aiming for a situation whereby identical substance is governed by identical provisions. To this end, it would help if the same work were conducted as similarly as possible and by the same date. At the same time, however, any specific provisions required ought to continue to be laid down in fund-specific Regulations.

## **European Territorial Cooperation**

28. European Territorial Cooperation (ETC) has a clear European added value and must continue to be part of European cohesion policy. Funding ought to continue to be provided for each of the three types of ETC, i.e. cross-border, transnational, and interregional cooperation. Close and specific cooperation across borders is highly important for European integration and highlights the need for joint problem-solving as we build a Europe that is economically strong and acts in solidarity.

29. The German government is in favour of adjusting the rules governing management and monitoring of ETC programmes so that they better reflect their multinational character. Given the small amounts of funding involved, we are asking the Commission to consider granting further simplification of ETC programmes, e.g. the application of state-aid rules.

## **III. Coordination of economic policies**

### **Link with country-specific recommendations**

30. For the current funding period, the link between EU Structural Funds and country-specific recommendations has been strengthened. This is a development worth pursuing in the future. Those country-specific recommendations that are relevant to the EU Structural Funds ought to be drawn on even more systematically and to an even greater extent within the process of developing joint strategic documents and programmes in the Member States. This will be possible provided that the relevant country-specific recommendations are suitable in terms of their substance and their timelines. A link with the EU Structural Funds only makes sense for country-specific recommendations that are tied to goals to be reached in the medium term, rather than the short term, and that are suited to be supported by structural funding.

31. Regulation (EU) No. 1303/2013 in its present form provides for the European Commission to call upon Member States to change their programmes under the EU Structural Funds in order to better implement country-specific recommendations. If Member States fail to do this, the European Commission can suspend funding from the EU Structural Funds, in full or in part (macroeconomic conditionality, 1st strand). The European Commission has, however, hardly made any use of this provision. It is the German government's view that the European Commission ought to make greater use of this instrument in order to ensure that Member States follow recommendations in a more targeted and stringent way as they allocate funding.

### **Creating additional incentives for structural reform**

32. The German government calls upon the European Commission to make greater use of cohesion policy as a tool that can be used to create additional incentives for Member States to tackle necessary structural reforms and to do this without increasing the overall envelope of the Structural Funds. The European Commission ought to develop dedicated instruments to achieve this.

33. In the view of the German government, the extended use of ex-ante conditionalities in the current funding period, i.e. certain regulatory, administrative, and political criteria, that have to be met prior to EU structural funding, has worked in favour of reforms and a more efficient and strategic use of EU structural funding. Therefore, ex-ante conditionalities ought to be developed further.
34. For this reason, the German government calls upon the European Commission to conduct an assessment as to which extent it might be appropriate to make compliance with country-specific recommendations part of the ex-ante conditionalities. This would create an additional incentive for Member States to comply with the recommendations and also result in better link between EU cohesion policy on the one hand and the relevant country-specific recommendations on the other. Furthermore, it would be worth exploring the possibility of making EU cohesion funding subject to compliance with the basic principles underpinning the rule of law.

### Macroeconomic conditionality

35. Under the principle of macroeconomic conditionality, which has been given a stronger role in the current funding period (Art. 23 Regulation 1303/2013), funding from the EU Structural Funds is subject to compliance with EU rules on economic and fiscal-policy coordination. Recent cases in which funding has been suspended as a result of non-compliance with certain requirements, e.g. with the Stability and Growth Pact, have highlighted the need for improving the relevant procedures, not least where the EU Structural Funds are concerned.
36. In the view of the German government, the principle of macroeconomic conditionality ought to be retained and developed further. In the interest of more stringent application of the principle of macroeconomic conditionality, we propose that a deadline of one month's time be introduced, within which the European Commission must table a proposal for suspending EU structural funding, either in full or in part.

## IV. Simplification

37. The rules governing the management of the EU Structural Funds are highly complex. This applies for beneficiaries as well as the public administration. For this reason, it is the German government's view that these rules need a great deal of simplification for the next funding period. At present, there are cases in which the administrative burden far outweighs proportionally small amounts of structural funding received. This notably applies to regions that are economically strong and to small-scale projects. Moreover, individual regions and stakeholders also ought to be given the scope they need in order to tap the potential for innovation and growth that lies dormant within the region. For these reasons, future cohesion policy ought to be simplified considerably and all of the rules governing it stated in a clear and unequivocal way and in due time.
38. At present, the Regulations governing the EU structural funds set out universal rules that apply for all Member States, irrespective of the volume of structural funding received, of the quality of the Member State's public administration, and of errors that have occurred in the past. On account of the large differences that exist between Member States, the German government is in favour of introducing a differentiated approach when it comes to the management of EU structural funds. For those Member States that meet certain objective and non-discriminatory criteria, the requirements that apply with regard to programming, management and monitoring of the Structural Funds ought to be lowered. These criteria might include those of a high share of national co-financing, few errors committed over many years, and having a highly-capable public administration – to the extent that there are objective criteria that can be used to measure this.
39. The German government speaks out in favour of honing a culture of careful management, control, and evaluation of structural funds – a culture based on mutual trust between the Commission and Member States. Reviews ought to be conducted not only so as to ensure and verify that European funding has been used in compliance with the applicable rules, but also into the outcomes of the relevant programmes. Ultimately, the objective must be to ensure due and careful control of EU funding, which extends to verifying the actual effects of this structural funding. Greater room ought to be given to the 'Single Audit' principle. Furthermore, there ought to be simplifying with regard to the state-aid provisions that apply in the context of EU structural funds.

40. In the light of the slow speed at which funding was disbursed at the beginning of the current period, the German government would like to call for those Member States that underwent the new and comprehensive designation procedure at the beginning of the current programming period to be exempt from having to undergo this process again, other than in cases whereby there have been major changes in the relevant management and control systems.

## Part 2: Comments by the German *Länder* on EU Cohesion Policy beyond 2020

### The Role of Cohesion Policy

1. Cohesion Policy is of particular significance as the EU's most important investment policy. Consistent simplification is required to further augment its effectiveness. Furthermore, the German federal states, the "*Länder*", are concerned to observe that the European Commission tends to accord greater priority to centrally administered instruments than to shared management instruments.
2. The *Länder* express their explicit support for measures to safeguard the prominent role of Cohesion Policy in the MFF after 2020: Cohesion Policy is indispensable to reduce the development differentials between European regions and to consolidate economic, social and territorial cohesion.
3. The ESIFs are essential instruments to support innovation, the economy, employment, urban development, environmental and climate protection and to strengthen development of rural areas.

They make a significant contribution to strengthening the Single Market and foster policy rooted in the long-term strategic goals of smart, sustainable and inclusive growth. They are consequently not simply an expression of European solidarity in action but also a manifestation of Europe's shared interest in ensuring that development is as harmonious as possible, with no region left behind.

4. Against this backdrop, the *Länder* consider that the particular significance of Cohesion Policy stems from its combination of strategic targets designed to respond to pressing European and global challenges, and long-term development strategies at the regional level. Implementation of these policies on the ground can boost their effectiveness and lead to stronger identification with European policies and projects thanks to greater proximity to citizens. That constitutes the – often underestimated – European added value of this policy.
5. Sustainable urban development should also be supported through strategies with integrated measures to address the particular challenges in urban areas. In this context, it is important to build on the results attained through partnerships that have been built up under the aegis of the EU Urban Agenda.
6. The *Länder* recall in this context that Cohesion Policy within Germany over the past 25 years has made a significant contribution to Germany's positive economic and social development across the entire country.

### Linking the EU Budget to Economic Policy Coordination in the Framework of the European Semester

7. The *Länder* recognise that it may also be appropriate to support essential structural reforms by linking the European Semester more closely to the ESIFs under certain circumstances, and in particular with strict respect for the Member States' spheres of competence.

The *Länder* note however that the annual Country-specific Recommendations directed to the Member States are difficult to reconcile with the medium and long-term programme planning strategy for the ESIFs, both substantively and procedurally.

Furthermore, the *Länder* also draw attention to the fact that the ESIFs can only provide support for implementation of the Country-specific Recommendations if there is an objective link to the contents of the ESIF programmes. In addition, the regions (in Germany: the federal states) are often responsible for ESIF programme implementation, whereas the Country-specific Recommendations are directed to the Member States.

The *Länder* therefore maintain their opposition to using macroeconomic conditionalities as a condition of funding eligibility.

## Appropriate Funding Provision for all Regions

8. The *Länder* call for a strategic, coherent, differentiated, Cohesion Policy based on economic strength to be continued for all regions in the post-2020 period. Regional GDP, measured in purchasing power parity in relation to the EU average, has proved to be a viable indicator for delimiting areas and should be maintained. Adequate allocation of funding in the future MFF is a crucial prerequisite for credible EU-wide implementation of this policy.

The *Länder* reaffirm their view, in compliance with Article 174 TFEU, that support for the least developed areas should continue to be the central Cohesion Policy priority in order to eradicate the structural shortcomings of these areas in the medium and long term. The Structural Funds are the right instrument for this purpose and provide support for the structural reforms that are often needed in the regions.

9. However, transitional and more developed regions also face substantial structural challenges (inter alia due to migration, demographic change, digitalisation, climate change and decarbonisation). At the same time, existing economic and social problems in these regions must also be addressed and funding must be made available to tackle these issues. In parallel, it is important to strengthen these regions as a driving force for innovation and regional development. Progress that has been made to date in the transitional regions must be consolidated and nurtured to ensure that these regions – like the more developed regions – are able to continue dynamically developing their pioneering capacity, drawing less developed areas along with them, both within the EU and in the global context (“strengthening strengths”).

The *Länder* therefore consider that insufficient funding has been earmarked for transitional and more developed regions as a proportion of the Cohesion Policy budget. This funding should be increased after 2020.

10. The *Länder* consider in this context that continued deployment of Cohesion Policy is needed in all regions to consolidate economic, social and territorial cohesion and make a greater contribution to smart, sustainable and inclusive growth; future allocation of funds to individual regions must continue to take account of the economic and employment situation in each region.
11. When the United Kingdom leaves the EU, the ensuing impact on EU statistics must not mean that the regions affected are left in a more difficult position, without appropriate transition periods, than if the United Kingdom were to remain in the EU. The socio-economic situation of these regions remains the same, irrespective of whether the United Kingdom is still an EU Member State.

## Duration of the MFF of EU Funding Programmes

12. The *Länder* underscore the need to ensure as much planning security as possible and therefore advocates maintaining the seven-year programme duration after 2020. Congruence between the MFF and the duration of EU funding programmes should in any event be maintained to ensure secure programme funding.

## Planning Security

13. The *Länder* emphasise the importance of planning security particularly in the realm of Cohesion Policy and urge that this be safeguarded even if there is flexibilization of the EU budget in future. Cohesion Policy aims to make all regions stronger structurally and to foster dynamic and sustainable development processes, and depends on reliably funded medium and long- term programmes and measures to attain these goals.

## Financial Instruments

14. The *Länder* take the view that financial instruments can be a useful alternative or a complement to grants. However, this does not apply equally in all policy areas or in all regions. In addition, the effectiveness of financial instruments depends to a considerable degree on general macroeconomic conditions, which are currently highly varied in the various regions across Europe.
15. Deployment of financial instruments should not be the preferred option as a general rule but should only occur where utilization of such instruments is considered on the ground to be expedient or necessary.

The Commission made the requirements for deploying financial instruments significantly more stringent in the run-up to the 2014–2020 funding period. There should be consistent simplification in this context too to make the financial instruments more effective and more attractive.

The *Länder* are opposed to any mandatory further increases in the percentage of financial instruments deployed in the forthcoming funding period. The *Länder* are also opposed to stipulation of a generalised minimum level of use of financial instruments for the ESIFs.

## Relationship between the ESIFs and the European Fund for Strategic Investments (EFSI)

16. The EFSI and the ESIFs have fundamentally different goals. Whereas the EFSI focuses exclusively on stimulating investments, the ESIFs are oriented towards long-term, systematic regional development processes and aim to flank structural reforms with the corresponding targeted investments on the ground. Consequently, EFSI does not have a regional basis and affords limited opportunities to steer its programmatic thrust. It therefore does not constitute an alternative to Cohesion Policy. It remains to be seen whether the Commission proposals improve the complementarity of the ESIFs and EFSI. The *Länder* insist that the EFSI and the ESIFs should not be set in competition to each other.
17. The *Länder* point out that it is not at all certain that EFSI actually attains the goals set for it: additionality in the framework of the projects supported by EFSI does not appear to be unequivocally assured. The general lack of programmatic orientation is also apparent in the unbalanced geographical and sectoral distribution of EFSI-funded projects. In some Member States there have not yet been any projects funded by the EFSI. Member States that are still suffering from the consequences of the financial crisis have to date only benefited to a limited degree from the fund, whereas in Germany there is little demand for EFSI due to low interest rates.
18. The *Länder* are therefore opposed to proposals to increase the EFSI budget immediately and extend the duration of EFSI, as it feels that such steps would be premature.

## Partnership-based Programming and a Focus on Results

19. The *Länder* advocate maintaining strategic focus on results in the future orientation of EU Cohesion Policy. Cohesion Policy can only succeed if actors on the ground are granted the trust and flexibility needed to pursue objectives that are in our common interest. This policy should be characterised by respect for the autonomy of smaller administrative units, within the framework of the subsidiarity principle, and, through funding incentives that encourage and strengthen the initiative, creativity and focus on the common good of these administrative units.

20. In contrast, the current high level of management instruments, the ensuing regulatory difficulties and a lack of legal and planning security in the current funding period have produced excessive complexity, which threatens to make this policy incompatible with the principles of subsidiarity and partnership, and is counter-productive for the goals of Cohesion Policy. In particular, these phenomena constrain the innovative potential of the Structural Funds. A concentration on specific topics as well as the restrictive enforcement of these topics in negotiations on the programmes and partnership agreements must not limit scope to adopt coherent programmes devised by the regions.

The *Länder* therefore urge that programming for the new funding period be organised in a clear, logically structured, streamlined and partnership- driven process involving the European Commission, the Member States and the regions. The individual responsibility of the Member States and regions should be reinforced in keeping with the subsidiarity principle, within the framework of European strategic guidelines. The outcome of this negotiation process should be programmes that function as brief strategic guidance documents.

The *Länder* advocate that the European Commission should accompany future implementation of these programmes solely through a dialogue with each region based on the idea of a strategic partnership. This dialogue should also contribute to simplifying programme implementation and reporting. Programme effectiveness should be appraised primarily on the basis of the results achieved.

## Strengthening European Territorial Cooperation

21. In the light of the German federal states' extensive and varied relations with their European partner regions and neighbouring regions, the *Länder* advocate continuing and reinforcing efficient and targeted funding for cross-border, transnational and interregional cooperation within the framework of the European Territorial Cooperation (ETC/ Interreg) objectives.

The *Länder* note that European added value in this funding area is particularly visible, thanks to the direct realisation of integration policy goals and promotion of good neighbourly cooperation.

With a view to deepening European integration and strengthening territorial cohesion, cooperation between project partners in different European countries, the potential for Europe-wide exchange of knowledge, and joint development of new solutions to optimise public and private administrative and development services all play an important role. These programmes must therefore continue to strengthen European border regions and cooperation in larger areas that have similar strengths and face similar challenges, for example in transnational programme areas, and must foster synergy effects with macroregional strategies in the spirit of a Europe of the regions in action.

However, the *Länder* also advocate that future legislation on ETC implementation focus more consistently on specific administrative and legal challenges that arise in implementing and managing binational or multinational funding programmes.

Given the complexity of programming, a state aid exemption and the establishment of indicators that offer an adequate reflection of the ETC's requirements and challenges would have a particularly positive impact in this context.

Small projects and measures focused on promoting contacts (people-to-people projects) contribute significantly to ensuring that people in the regions become directly aware of the European idea and the EU's actions; funding for such projects and measures should be maintained in future.

## Excessive Regulation and Administrative and Oversight Burdens

22. The *Länder* stress emphatically that implementation of the ESIFs is now highly overregulated and clearly exceeds the threshold for an acceptable level of oversight and administrative effort arising from programme implementation, both for the bodies that run projects and for the administrations involved. It is vital to ensure that the heavy workload involved in settlement of accounts and organisation of oversight measures does not thwart implementation of viable, useful projects. Administrations dealing with implementation face a plethora of additional obligations, causing pronounced, time-consuming and costly additional administrative burdens, which also indirectly have a highly detrimental impact on beneficiaries.

The growing complexity of programme implementation increases the likelihood of error and the error rate.

23. Furthermore, the system of subsequent adoption of implementing legal acts and guidelines, which in addition were adopted at a very late stage, has caused massive delays in operational initiation of the programmes, while the ensuing burden on administrative systems makes it virtually impossible to ensure implementation in conformity with the legislation. As a consequence, there have been increasing delays in programme implementation from funding period to funding period. This does not only jeopardize Cohesion Policy *per se*, but is also damaging to overall perception and credibility of the EU as the policy is highly visible and experienced first-hand by citizens.
24. The *Länder* therefore consider it advisable to conduct a comprehensive review and to limit the requirements stipulated at the European level concerning ESIF programming, administrative and oversight systems, including the ETC programmes.

Greater legal security, legal clarity and continuity are also of particular importance for the *Länder* in this context. Timely submission of the new legal framework and all the documents in the respective official languages well before the start of a funding period is thus also of particular importance; it is also essential to avoid applying and interpreting provisions retroactively.

There is an urgent need to ensure that the legal framework is streamlined and that the details pertaining to administrative and oversight systems are stipulated for more than one funding period. This also applies to the eCohesion mechanisms, which have been developed at considerable expense.

25. Against this backdrop, the *Länder* view the European Commission's proposals to simplify ESIF funding and to convene the High Level Group of Independent Experts on Administrative Simplification as a positive indication that the Commission is aware of the extent of the problem.

Simplification endeavours must not *de facto* lead to further difficulties for the administration and beneficiaries, as has been the case in the past. It is not unusual for the European Commission to respond to calls from Member States for greater administrative simplification by introducing further implementing regulations, provisions and guidelines, thus ultimately increasing the system's complexity and susceptibility to errors. Readily comprehensible rules and simplifications, in particular concerning administrative and oversight procedures, must therefore be an essential goal for the next MFF period.

## Implementation Pursuant to National Law and a Consistent Single Audit Approach

26. The *Länder* therefore call for a fundamental change of course, guided by the subsidiarity principle, in programme planning and implementation, which would also correspond to a greater focus on results. Administrative aspects of programme implementation – with the exception of European territorial cooperation – should in principle be governed by national law in future.

The *Länder* call in addition for a Single Audit approach to be applied consistently to avoid duplication of audits or contradictory appraisals by bodies involved in such audits, and to cut the costs of oversight mechanisms. Audits by the European institutions should be limited to audits focused on combatting fraud and corruption.

## State Aid Regime

27. The *Länder* firmly reiterate that they advocate further simplifying application of state aid provisions in deploying the ESIFs. Treating directly administered EU funds, such as EFSI and “Horizon 2020”, differently from the ESIFs from a state aid perspective increases the administrative burden and hinders the European Commission’s stated goal of fostering synergies between the funds.

## Proportionality

28. Overall the *Länder* call for a greater emphasis on the proportionality principle in future implementation and oversight of the ESIFs. The *Länder* consider in particular that the level of programme funding, susceptibility to error, the quality of administrative enforcement and the level of own funding are the central criteria that should be incorporated into deliberations on configuring administrative and oversight systems for the post-2020 period.